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**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number 10/670,531

Filing Date September 26, 2003

First Named Inventor Castleberry

Art Unit 3643

Examiner Name Gellner

Attorney Docket Number X-9425

**ENCLOSURES (Check all that apply)**

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Fee Transmittal Form                             | <input type="checkbox"/> Drawing(s)                                       | <input type="checkbox"/> After Allowance Communication to TC                            |
| <input type="checkbox"/> Fee Attached                                     | <input type="checkbox"/> Licensing-related Papers                         | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences     |
| <input type="checkbox"/> Amendment/Reply                                  | <input type="checkbox"/> Petition   | <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) |
| <input type="checkbox"/> After Final                                      | <input type="checkbox"/> Petition to Convert to a Provisional Application | <input type="checkbox"/> Proprietary Information  |
| <input type="checkbox"/> Affidavits/declaration(s)                        | <input type="checkbox"/> Power of Attorney, Revocation                    | <input type="checkbox"/> Status Letter  |
| <input type="checkbox"/> Extension of Time Request                        | <input type="checkbox"/> Change of Correspondence Address                 | <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):         |
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**Remarks**

Response and 3 substitute signature pages

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name	Gipple & Hale		
Signature			
Printed name	John S. Hale		
Date	February 7, 2006	Reg. No.	25,209

**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name	John S. Hale/Gipple & Hale	Date	February 7, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Patent Application of

CASTLEBERRY

Serial No.: 10/670,531

Filed: September 26, 2003

For: AGRICULTURAL FOAM GROWING  
MATERIAL

Examiner Gellner

Group Art Unit 3643

Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**RESPONSE**

Due to a printing error, the signature on the signature page of the corrected Appeal Brief filed in the U.S. Patent and Trademark Office on February 6, 2006 was omitted. Please find enclosed 3 (three) signature pages for substitution.

If any additional fees are incurred, kindly charge the same to our Deposit Account No. 07-1340.

Respectfully submitted,

GIPPLE & HALE

  
John S. Hale  
Registration No. 25,209

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Attorney Ref.: X-9425

As previously argued, none of the cited references singularly or in combination suggest, teach or obviate the present invention and indeed cannot be combined. The Examiner has engaged in hindsight application, a prohibited rejection since *John Deere* to combine the cited prior art references against the present invention.

The respective grounds of final rejection of the claims of this application under 35 USC 103(a) are incorrect for the reasons advanced above. Reversal thereof by the Honorable Board of Patent Appeals and Interferences is therefore requested and is earnestly solicited.

Our check in the amount of \$250.00 was previously attached to cover the cost of filing this Brief and two copies. Oral hearing will be requested during the rebuttal time period. If any additional fees are incurred, kindly charge the same to our Deposit Account No. 07-1340.

Respectfully submitted,

GIPPLE & HALE



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